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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION

Washington, D.C. 20554

In the Matter of)
)
Implementation of Section 9) MD Dk. No. 94-19
of the Communications Act)
Assessment and Collection of)
Regulatory Fees for the 1994)
Fiscal Year)

To: The Secretary

EMERGENCY REQUEST TO STAY PROCEDURAL DATES

Fireweed Communications Corp. ("FCC," or "petitioner"), licensee of television broadcast station KYES (TV), Anchorage, Alaska, and translator station K06LY, by its counsel, here requests an emergency stay of the dates for filing comments and replies in the referenced matter. Nominally, comments are due today. In support of this request, the following is submitted:

1. The Notice of Proposed Rulemaking was published in the Federal Register on March 17, 1994, 59 FR 12570. A comment date of less than thirty days, after the statutorily required publication is extreme, almost unknown in the Commission's practice.¹ For this reason, a brief extension of time is sought,

¹ The Commission's Rules and Regulations contemplate that "A reasonable time will be provided for the submission of comments. . . ." Sec. 1.415(b). Petitioner is unaware of any previous instance, concerning a matter of such complexity and far

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until April 18, 1994, for comments to be filed.

2. The Commission's proposals, contrary to law, fail to state in express terms that they "may have significant economic effect on a substantial number of small entities," 5 U.S.C. §609. Nor has any effort apparently been made to alert small entities to this significant impact, 5 U.S.C. §609. Small entities, of course, and petitioner, located in the State of Alaska, are especially likely not to be able to participate, under the Commission's peremptory ground rules.

3. The proposals, being 48 pages, are extremely complex, involving new charges against licensees and authorized users, across the entire spectrum of the Commission's regulatory oversight. It has apparently taken the Commission six and a half months to devise its approach, since Pub. L. No. 103-66 was approved on August 10, 1993, even though the Statute itself decrees many of the parameters. Petitioner notes that the proposal is so complicated that it took a full week, from Commission adoption on March 4, 1994, for the full text even to be released.

4. Additionally, the proposals raise difficult Constitutional issues of "due process," "taking" and the free speech" interests of Commission licensees -- none of which has been acknowledged by the Commission in its Notice, and all of which need to be brought to the fore at the stage of comment.

ranging effect, where a three-week window for comment was deemed "reasonable."

5. Fiscal Year 1994 ends on October 1, 1994, or five months and 24 days from today. Assuming that the procedural dates are not changed in response to this, or other requests, and assuming it takes 30 days to digest all comments, draft a complex agenda item, place it on a sunshine agenda and have it adopted, it is a literal physical impossibility to complete and publish in the Federal Register a Report and Order, and a subsequent Order on Reconsideration, and give the latter effect, before the end of this fiscal year. Instead of pursuing this chimera, and trampling on the procedural rights of small-entity licensees, some of whom have held their authorizations since before World War II, the Commission ought to take a step back, and encourage such parties to be heard.

6. Because the Statutory and Commission schedules were fashioned with no regard for the scarcity values created by the scheme of regulation, they fall disproportionately on small markets operators, and create a windfall for large ones. The Commission should not assume that the eerie silence from trade associations representing large entities reflects an across-the-board assent to its callous timetable. Obviously, those unaware of the speeding train have said nothing about it, to date.

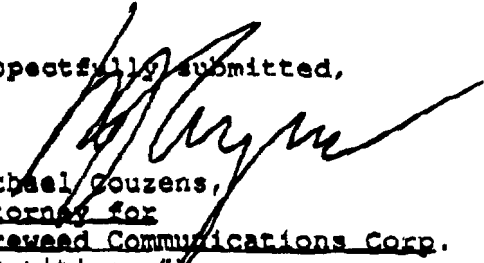
7. Petitioner does not today have a copy of the notice, but is informed and believes that the statutory scheme is an arbitrary taking, and is likely to be stayed by a Federal Court, before the government collects a nickel. While to some extent bound by the

statutory parameters, the Commission has done little or nothing to

mitigate their harmful effects on small entities. Denial of a brief stay would aggravate this failure.

For the stated reasons, petitioner requests that the Comment and Reply Comment dates herein be stayed for a brief period, respectively to April 18, 1994, and May 3, 1994.

Respectfully submitted,


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("Petitioner")

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April 7, 1994.